

To publish proposed regulations the following verification must be signed and returned to the Clerk of the State Register

VERIFICATION

This certifies that I have reviewed the text of this document and determined that, with the stricken text deleted and the new text incorporated, the text reads as the agency intends it to read.

Date

Reviewing Officer

Document No. 4067

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-20 et seq. and 23-47-20

37-001 through 37-028. Law Enforcement Training
(Formerly 38-001 through 38-028)
37-060 through 37-076. E-911 System
(Formerly 38-060 through 38-076)

Preamble:

The General Assembly passed Act 317 and Act 335 (South Carolina Code §23-23-10, et seq.) separating the South Carolina Criminal Justice Academy (hereinafter, "CJA") from the Department of Public Safety (hereinafter, "DPS"). S.C. Code §23-23-10, et seq. requires CJA to train, certify, and evaluate certifiability of candidates for law enforcement certification in the state of South Carolina. The Act allows CJA to promulgate regulations as are necessary for the administration of Act 317. Additionally, S.C. Code §23-47-20(C)(15) requires CJA to promulgate regulations to provide for the training of telecommunications operators or dispatchers. The proposed regulations break CJA regulations out of Chapter 38, which is for DPS, and places them in Chapter 37. The proposed regulations also clean up the language used throughout the regulations that is inconsistent with the CJA being a stand alone agency and contains some substantive changes to various sections of the regulations.

Notice of Drafting for the proposed amendments was published in the State Register on January 23, 2009.

Section-by-Section Discussion

- 37-001 This section contains only clean up from CJA's split from DPS.
- 37-002 This section adds requirements for re-issuance of certification to law enforcement officers with regard to citizenship, whether they are in arrears in child support, and whether they are subject to an Order of Protection, Restraining Order, or Foreign Protection Order. It also specifically allows CJA to bring penalties against agencies that do not comply with the regulations.
- 37-003 This section primarily contains only clean up from CJA's split from DPS. It also allows all findings of good character to be subject to final approval by the Director of the Academy.
- 37-004 This section contains clean up from CJA's split from DPS and adds several things to the list defining misconduct.

- 37-005 No language changes.
- 37-006 This section contains only clean up.
- 37-007 This section contains only clean up from CJA's split from DPS.
- 37-008 This section removes equivalent training for military training and increases the times allowed under prior training with break in service. These increases in times allowed under prior training with break in service are due to a survey CJA made of other state's statutes/regulations regarding prior training with break in service and the needs of law enforcement agencies throughout the state.
- 37-009 This section primarily contains clean up from CJA's split from DPS.
- 37-010 This section contains only clean up from CJA's split from DPS.
- 37-011 This section changes the language from "traffic radar" to the more generic language of "speed measure device operator." This will allow and encompass other forms of speed measurement, such as LIDAR.
- 37-012 This section contains only clean up from CJA's split with DPS.
- 37-013 This section primarily contains clean up from CJA's split with DPS.
- 37-014 This section contains clean up from CJA's split with DPS and puts additional requirements on those submitting materials for CLEE approval.
- 37-015 This section contains clean up from CJA's split with DPS and gives officers called to military duty a long period of time to come back into compliance with regard to the CLEE than was previously given. This extension of time is proposed to bring these regulations more in line with federal law. This section also provides that officers who do not come back into compliance will have to return for training under the prior training break in service regulation. This section also allows for a longer period of medical disability or administrative leave. This section further allows for a penalty to be brought against agencies that do not comply with this regulation.
- 37-016 This section contains clean up from CJA's split from DPS and adds several things to the list defining misconduct.
- 37-017 This section contains only clean up from CJA's split from DPS.
- 37-018 This section primarily contains clean up from CJA's split from DPS and removes the requirement of notice of withdrawal of certification via certified mail, return receipt requested.
- 37-019 This section primarily contains clean up from CJA's split from DPS and removes the requirement of notice of withdrawal of certification via certified mail, return receipt requested. This section also will allow service of the notice at the officer's place of employment. This change is requested because CJA in many cases does not know the officer's home address.
- 37-020 This section contains only clean up from CJA's split from DPS.

- 37-021 This section primarily contains clean up from CJA's split from DPS.
- 37-022 This section primarily contains clean up from CJA's split from DPS.
- 37-023 This section contains only clean up from CJA's split from DPS.
- 37-024 This section contains only clean up from CJA's split from DPS.
- 37-025 This section contains only clean up from CJA's split from DPS.
- 37-026 This section contains only clean up from CJA's split from DPS.
- 37-027 This section contains only clean up from CJA's split from DPS.
- 37-028 This section adds definitions for "Agency," "Director," and "Academy."
- 37-060 This section contains only clean up from CJA's split from DPS.
- 37-061 This section is new and establishes the Director's authority.
- 37-062 This section is new and sets out some of the requirements for issuance or re-issuance of certification.
- 37-063 This section is new and sets out the requirements for good character.
- 37-064 This section adds requirements for demonstrating a candidate for training is a person of good character.
- 37-065 No language changes.
- 37-066 This section is new and sets out reasons for denying certification based on misconduct.
- 37-067 This section is new and sets out that certification will occur upon successful completion of training.
- 37-068 This section contains clean up from CJA's split from DPS and sets up training requirements for certification, including keeping the grandfather provision for certification based on the date the regulations became effective at the time the grandfathering provision was added.
- 37-069 This section is new and sets out that training must take place within one year of hire unless specific circumstances apply.
- 37-070 This section is new and deals with prior training with a break in service. It also eliminates the prior break in service after certification section.
- 37-071 This section is new and deals with separation from employment.
- 37-072 This section is new and deals with withdrawal of certification.
- 37-073 This section is new and deals reporting of events requiring withdrawal of certification.

37-074 This section is new and deals with investigation of events requiring withdrawal of certification and notification of withdrawal of certification.

37-075 This section is new and deals with notification of withdrawal of certification.

37-076 This section is new and deals with confidentiality of notification of withdrawal of certification.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the South Carolina Criminal Justice Academy on April 29, 2009 to be held in room 140 (DL Lab) at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Brandy A. Duncan, General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00 p.m. on April 28, 2009. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on April 29, 2009, as noticed above. Written comments received by the deadline will be submitted to the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be minimal increased costs to the state with these changes and, in many cases, a decrease in costs to the state and its political subdivisions with these changes. Due to the changes regarding E-911 political subdivisions will see an increase in cost, however, the South Carolina Criminal Justice Academy is not able to predict this increase in cost due to lack of knowledge regarding the number of candidates that will require E-911 training.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS:

Purpose: The purpose of these proposed changes is to clean up the language throughout the regulations so they reflect the split of CJA from DPS. Many of the other substantive changes are requested to bring the regulations in line with federal law, state law, or best practices as observed in our and other states.

Legal Authority: 1976 Code Sections 23-23-20 et seq. and 23-47-20(C)(15)

Plan for Implementation: The proposed regulations will take effect upon approval by the General Assembly and publication in the State Register.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed regulations will clean up the language of the regulations to reflect the split of CJA from DPS, allow for more consistency in certification of law enforcement officers and E-911 operators, allow

for more time to come back into compliance after a tour a military service, allow for longer breaks in service, and allow CJA to subject violators of the regulations to civil penalties.

DETERMINATION OF COSTS AND BENEFITS:

The law enforcement community will benefit by having longer breaks in service before having to return for retraining and by having consistency between the statutes (Training Act) and regulations. The law enforcement communications community will benefit by having consistent training for all communications operators.

UNCERTAINTIES OF ESTIMATES:

The CJA cannot predict how many E-911 operators will require E-911 training.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Not applicable.

Statement of Rationale:

Revisions to these regulations are necessary to finalize the split of CJA from DPS and to make the regulations consistent with the statutes (Training Act).

Instructions: Articles 1 and 3 of Chapter 38 of the Code of Regulations are redesignated as Articles 1 and 3 of Chapter 37 of the Code of Regulations and are amended as indicated in the text below. Articles 1 and 3 of Chapter 38 of the Code of Regulations are deemed repealed.

Text:

CHAPTER 37

South Carolina Criminal Justice Academy

ARTICLE 1

LAW ENFORCEMENT TRAINING

37-001. Authority of Director.

A. The Director of the South Carolina Criminal Justice Academy ("Academy") is authorized to issue orders directing that public law enforcement agencies and law enforcement officers certified in this state comply with , Chapter 23, Title 23 Code of Laws of South Carolina, 1976, as amended, and the regulations promulgated pursuant thereto.

B. All orders so issued shall be reviewed and ratified by the Director prior to their issuance.

37-002. Application for Re-issuance of Certification.

A. All candidates for re-issuance of certification must:

- (1) Be a United States Citizen;
- (2) Not be in arrears on child support;
- (3) Not be subject to an Order of Protection issued under the Protection from Domestic Abuse Act;
- (4) Not be subject to a Restraining Order issued to prevent harassment or stalking;
- (5) Not be subject to a Foreign Protection Order as defined by the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

B. All applications for re-issuance of law enforcement certification shall be submitted within fifteen days after hiring on a form prescribed by the Academy. A failure by law enforcement agencies and other employers of law enforcement officers to submit the necessary information as set out in R.37-013 on a form approved by the Academy shall subject the violator to a civil penalty as provided by law.

37-003. Requirement of Good Character.

A. Background Investigations.

Every agency who requests certification of any class of law enforcement officer shall conduct a background investigation in accordance with guidelines issued by the Academy.

B. Certification to the Academy.

Every agency who requests certification of any class of law enforcement officer shall certify to the Academy that, in the opinion of the employing agency, the candidate is of good character and has not engaged in misconduct as defined in R.37-004. However, a finding of good character is subject to final approval by the Director of the Academy.

C. Availability of Background Information.

Information obtained in any background investigation made in response to these regulations, shall be available, upon request, to the Academy for its review and to any future prospective law enforcement employers to assist them in a determination of an applicant's good character for law enforcement certification.

37-004. Denial of Certification for Misconduct.

A. The Academy may deny certification based on evidence satisfactory to the Director that the candidate has engaged in misconduct. For purposes of this section, misconduct means:

- (1) Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, criminal domestic violence, criminal domestic violence of a high and aggravated nature, or a crime punishable by a sentence of one year or more (regardless of the sentence actually imposed, if any), in this or any other jurisdiction;
- (2) Unlawful use of a controlled substance;
- (3) The use of excessive force in dealing with the public and/or prisoners;
- (4) Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;
- (5) Physical or psychological abuse of members of the public and/or prisoners;
- (6) Misrepresentation of employment-related information;
- (7) Dishonesty with respect to his/her employer/employment;
- (8) Untruthfulness with respect to his/her employer/employment;
- (9) Violations of criminal law resulting from administrative inquiries;
- (10) Arrears in child support;

- (11) Subject to an Order of Protection issued under the Protection from Domestic Abuse Act;
- (12) Subject to a Restraining Order issued to prevent harassment or stalking; and/or
- (13) Subject to a Foreign Protection Order as defined by the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

B. In considering whether to deny certification based on misconduct, the Director may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

37-005. Firearms Qualification Requirement.

Each law enforcement agency shall maintain proof of completion of a firearms qualification program and keep on file, available for inspection, proof that the firearms qualification program was administered by an Academy accredited firearms instructor.

37-006. Certification.

Certification will occur upon the successful completion of the prescribed training course as set out in 37-007. No candidate may be certified in more than one class at any one time and certification shall be that required for the most recent employing agency.

37-007. Training Requirements for Basic Law Enforcement Certification.

A. Class 1 Certifications.

(1) Candidates for basic certification as law enforcement officers with full powers shall successfully complete a training program as approved by the Academy and will be certified as Class 1-LE.

(2) Candidates for basic certification as both law enforcement officers with full powers and as local detention facility officers shall successfully complete the requirements to be certified as Class 1-LE and Class 2-LCO and will be certified as Class 1-LECO.

B. Class 2 Certifications.

(1) Candidates for basic certification as local detention facility officers) shall successfully complete a training program as approved by the Academy and will be certified as Class 2-LCO.

(2) Candidates for basic certification as correctional officers with the Department of Corrections shall successfully complete a training program as approved by the Academy and will be certified as Class 2-SCO.

(3) Candidates for basic certification as juvenile correction officers with the Department of Juvenile Justice shall successfully complete a training program as approved by the Academy and will be certified as Class 2-JCO.

C. Class 3 Certifications.

Candidates for basic certification as law enforcement officers with limited powers of arrest or special duties shall successfully complete a training program as approved by the Department and will be certified as Class 3-SLE.

37-008. Equivalent Training.

A. Other States.

All candidates who have received law enforcement training in other states shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a

case by case basis and each candidate will be given credit for any training deemed equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

B. Federal Training.

All candidates who have received law enforcement training with U.S. federal agencies shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed to be equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

C. Prior Training with Break in Service.

(1) All certification lapses when an individual terminates active law enforcement duty.

(2) A candidate with a break in service of less than two years will be re-certified by the Academy upon receiving a request by his or her department and upon providing proof of no disabilities at law.

(3) A candidate with a break in service of two years but less than five years will be re-certified upon submission of the application with appropriate documents as set out in Section 23-23-60 and R.38-002.

(4) A candidate with a break in service of five years or more must complete all the requirements of Section 23-23-60 and R.37-002, R.37-005 and R.37-006.

(5) When a candidate becomes subject to new training requirements, as set forth in R.37-007, as a result of a transfer from one agency to another with different training requirements, the candidate must successfully complete the training requirements for the class of certification the candidate will occupy with the new agency.

(6) A candidate who has been continuously certified in this state, in any class, and who transfers to a class in which he/she has been previously certified, will be certified in the prior class upon successful completion of the firearms qualification requirement.

37-009. Separation from Law Enforcement Employment.

A. All law enforcement agencies and other employers of law enforcement officers are required to notify the Academy when an officer leaves the employment of the agency/employer, regardless of the reason for the separation within 15 days of separation.

B. Such notification shall take place on a form as prescribed by the Academy, containing the facts and circumstances leading to the separation, for the Academy's use and review.

C. In the event that such notification contains allegations of misconduct, a copy of such notice shall be sent to the law enforcement officer and the officer shall be informed of the provisions of Section 23-23-90 and allowed to file a response for the Academy's use and review.

D. A willful failure by law enforcement agencies and other employers of law enforcement officers to supply the facts and circumstances of separation shall subject the violator to a civil penalty as provided by law.

37-010. Reserve Police.

A. Definition.

In addition to the definition required by law, a "reserve" officer is not paid by the agency for which the officer performs law enforcement duties unless otherwise provided by law.

B. Documentation and Reporting.

(1) Each agency having a reserve law enforcement officer program shall keep on file, available for inspection, all documentation required for regularly salaried law enforcement officers and as set out in R.37-002.

(2) Each agency shall certify to the Academy, using a form prescribed by the Academy, that such documentation is on file in the agency.

C. In-Service Requirement.

Each agency having a reserve law enforcement officer program shall keep on file, and make available for inspection, documentation that each reserve officer has completed the in-service requirement as required by law.

D. Transfers.

(1) A reserve officer who desires to transfer to regular law enforcement status shall complete all the requirements as set forth by law and under R.37-008 as appropriate for the class of certification which the reserve officer will occupy.

(2) A certified law enforcement officer who transfers to reserve status for a period of time not to exceed five years, shall be deemed to have no break in service as defined in R.37-008. Should the period of time exceed five years, the officer shall be deemed to have a break in service and shall complete all the requirements as set forth by law and under R.37-007, as appropriate for the class of certification which the reserve officer will occupy.

E. Operational Procedures.

Any law enforcement agency wishing to establish a Reserve Officer program must meet minimum department sponsored certification criteria as required by the Academy Standards Section.

37-011. Speed Measurement Device Operator.

A. Qualification.

Only Class 1 certified law enforcement officers and appointed reserve officers may be accredited as Speed Measurement Device operators.

B. Accreditation.

To be accredited as a Speed Measurement Device operator, a law enforcement officer must complete a course of training taught by a certified law enforcement Speed Measurement Device instructor.

37-012. Application for Re-certification.

An application for re-certification must be submitted on a form approved by the Academy and is deemed complete when the form, with the necessary information as set out in R.37-013, is received by the Academy.

37-013. Continuing Law Enforcement Education Requirements for Re-certification.

A. Eligibility.

No law enforcement officer is eligible for re-certification unless, in addition to the requirements of R.37-012, the officer has successfully completed, at a minimum, the number of approved continuing law enforcement education hours as appropriate for the officer's certification class, as specified in R.37-007. Such education hours shall be designated as Continuing Law Enforcement Education (CLEE) hours in the context of these regulations.

B. Class 1 Re-Certification Requirements:

(1) Officers possessing a current Class 1-LE Certification shall be required to obtain forty CLEE hours in a three year period. The forty CLEE hours shall consist of at least one legal update course and one domestic violence course, presented or approved by the Academy, each year of the three year period. The remaining required CLEE hours in the three year period may come from any source approved by the Academy.

(2) Officers possessing a current Class 1-LECO certification shall be required to complete a standard course of in-service training hours per year as specified by the Jail Standards Committee and approved by the Academy. Each officer shall also be required to complete at least one legal update course and one domestic violence course, presented or approved by the Academy, each year of the three year period.

C. Class 2 Re-certification Requirements:

(1) Officers possessing a current Class 2-LCO Certification shall be required to complete a standard course of in-service training hours per year as specified by the Jail Standards Committee and approved by the Academy.

(2) Officers possessing a current Class 2-SCO Certification shall be required to complete an Academy approved agency in-service program every three years. At least one course each year shall be a legal update course.

(3) Officers possessing a current Class 2-JCO Certification shall be required to complete an Academy approved agency in-service program every three years. At least one course each year shall be a legal update course.

D. Class 3 Re-certification Requirements:

Officers possessing a current Class 3 Certification shall be required to complete at least one legal update course, presented by the Academy, each year of the three year period.

37-014. Approval of Continuing Law Enforcement Education Hours for Re-certification Requirements.

A. The Academy shall approve courses for CLEE hours toward officer re-certification upon application made on a form approved by the Academy and containing the following information concerning the courses:

- (1) The name of the course sponsor and its address;
- (2) The course agenda showing the actual number of hours of instruction;
- (3) A listing of course faculty/instructor with educational and professional credentials for each faculty member/instructor;
- (4) A copy of the course written materials, including lesson plan(s) ;
- (5) Any supporting material which the course offeror wishes to submit for the Academy's consideration;
- (6) An attestation of legal sufficiency by the Departmental/Agency legal counsel;
- (7) An attestation of endorsement by the Departmental/Agency Chief Executive Officer (Chief, Sheriff, Administrator).

(8) Federal governmental agencies (law enforcement and non-law enforcement), non-law enforcement state, county, local governmental agencies and entities that offer tuition-based training (for profits vendors), upon application and qualification, must be deemed "Institutional Providers" and will be required to abide by all appropriate rules and regulations promulgated by the Academy.

B. The Academy shall maintain a listing of courses which are approved for CLEE hours towards officer re-certification and shall indicate after each course the number of CLEE hours for which the course is approved. The listing shall be updated on an annual basis.

C. Courses, once approved, shall be added to the listing maintained by the Academy. In order to receive continuing approval for course offerings, the offeror of each course must provide, on each successive second anniversary of the course's being placed on the listing, an updated application form and supporting documentation as stated in paragraph (A) of this section. Failure to comply with this requirement shall result in the course being removed from the listing and having its approval withdrawn.

37-015. Extension of Certification Renewal Date.

A certified law enforcement officer who is unable to complete the requirements of R.38-013 within the three year period specified will be granted an extension to his/her renewal date in the following cases:

A. Military Leave.

Any officer called to active military duty for a period of more than thirty consecutive days shall be granted an extension to his/her renewal date, as specified in Section 23-23-60(C) of the South Carolina Code of Laws, for a total of one hundred and eighty days beyond the completion of the active duty. Any officer that fails to come back into compliance pursuant to this section within one hundred and eighty days after the completion of their active duty will be treated as if they have a break in service starting on the date they were separated due to their active duty and will be required to return for training as mandated by R. 37-008(D).

B. Medical Disability or Administrative Leave.

(1) Any officer who is on disability leave, medical leave, or administrative leave granted by the employing agency, with or without pay, for a period of more than thirty consecutive days but less than two years, shall be granted an extension to his/her renewal date, as specified in Section 23-23-60(C) of the South Carolina Code of Laws, for the duration of the leave, provided such leave does not exceed two years. The extension of his/her renewal date runs concurrent with the leave period and is not applicable beyond two years.

(2) Any officer on medical leave, disability leave, or administrative leave granted by the employing agency, for a period of more than two years shall be treated under R.37-008(D)(3) or (4).

C. Eligibility and Application for Extension of Renewal Date.

(1) Only officers whose law enforcement responsibilities have been temporarily suspended due to military, medical, disability and/or approved administrative leave will be eligible for an extension of renewal date.

(2) Application by the employing agency for an extension of renewal date shall be made within forty-five days of the beginning of military leave, medical leave, disability leave, or administrative leave granted by the employing agency, on a form prescribed by the Academy.

(3) Notification by the employing agency of a return to active law enforcement duty shall be made within fifteen days of return to active law enforcement duty on a form prescribed by the Academy. A failure by law enforcement agencies and other employers of law enforcement officers to submit this information on a form approved by the Academy shall subject the violator to a civil penalty as provided by law.

37-016. Withdrawal of Certification of Law Enforcement Officers.

A. A law enforcement officer, certified pursuant to the provisions of R.37-007 and R.37-008, shall have his or her certification as a law enforcement officer withdrawn by the Director upon the occurrence of any one or more of the following events:

(1) The officer is found to have falsified any application for certification and training based upon which the officer was admitted for training.

(2) The officer is found to be ineligible for service as a law enforcement officer because of his or her failure to meet prerequisite qualifications for training and certification, as set by law, even though such ineligibility did not exist or was not discovered until after the officer's initial certification.

(3) The officer is convicted of a criminal offense under the law of any jurisdiction which would, by the laws of this State, disqualify the officer from obtainment of certification as provided for in R.37-007 and R.37-008.

(4) Evidence satisfactory to the Director that the officer has engaged in misconduct. For purposes of this section, misconduct means:

(a) Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, Criminal Domestic Violence, or Criminal Domestic Violence of a High and Aggravated Nature, or a crime punishable by a sentence of one year or more (regardless of the sentence actually imposed, if any), in this or any other jurisdiction;

(b) Unlawful use of a controlled substance;

(c) The use of excessive force in dealing with the public and/or prisoners;

(d) Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;

(e) Physical or psychological abuse of members of the public and/or prisoners;

(f) Misrepresentation of employment-related information;

(g) Dishonesty with respect to his/her employer/employment;

(h) Untruthfulness with respect to his/her employer/employment;

(i) Violations of criminal law resulting from administrative inquiries;

(j) Arrears in child support;

(k) Subject to an Order of Protection issued under the Protection from Domestic Abuse Act;

(l) Subject to a Restraining Order issued to prevent harassment or stalking; and/or

(m) Subject to a Foreign Protection Order as defined by the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(5) Evidence satisfactory to the Academy that the officer has met and maintained the criteria of good character as required and established through background investigation and certification to the Academy by the employing agency as provided in R.37-003(A) and (B).

In considering whether to withdraw certification based on misconduct, the Director may consider the seriousness, frequency and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

B. The officer's certification expires due to the officer's failure to meet re-certification requirements as set out in R.37-013. Any officer whose certification expires in this manner will be required to complete a training program approved by the Academy.

37-017. Reporting of Events Requiring Withdrawal of Certification.

A. It shall be the responsibility of the sheriff or the chief executive officer of every law enforcement agency or department within the State to report to the Academy the occurrence of any event or series of events, set forth in R.37-016 which may require the withdrawal of certification of a law enforcement officer who is currently or was last employed by his or her agency.

B. The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department, and shall be on a form prescribed by the Academy.

C. A willful failure to report information shall subject the violator to a civil penalty as provided by the Academy.

D. Only events which are determined as founded by the department or agency shall be reported as provided herein above.

37-018. Investigation of Events Requiring Withdrawal of Certification; Notification to Officer.

A. Upon receipt of a report pursuant to R.37-017(A), the Academy shall initiate an investigation into reported events which may require withdrawal of the law enforcement officer's certification.

B. The Director may suspend the certification of any law enforcement officer pending the outcome of an investigation initiated pursuant to paragraph (A) above.

C. A law enforcement officer who is the subject of an investigation shall be notified of its initiation on a form prescribed by the Academy, sent to the current address on file at the Academy as soon as practicable after the investigation is initiated.

D. Duplicate of such notice shall be sent, in the same manner prescribed in paragraph (C) above, to the current sheriff or chief executive officer of the employing agency or department of the law enforcement officer.

E. The Academy may direct that the investigation, on its behalf, be conducted. The investigation shall be sent to the Academy for its use and review.

F. Where the Academy's investigation indicates that withdrawal of the law enforcement officer's certification is not warranted, the Academy shall notify the law enforcement officer and the sheriff or chief executive officer of the employing law enforcement agency of its finding, in accordance with the notice provisions of paragraph (C) and (D) above.

G. Where the Academy's investigation indicates that withdrawal of the law enforcement officer's certification is warranted, the Academy shall proceed in accordance with R.37-019.

37-019. Notification of Withdrawal of Certification.

A. Prior to the withdrawal of a law enforcement officer's certification pursuant to R.37-016, the Academy shall notify the officer whose certification is to be withdrawn on a form prescribed by the Academy sent to the current employer's address on file at the Academy to the officer.

B. Such notice shall be provided to the officer ten days in advance of the effective date of withdrawal of the certification.

C. Duplicate of such notice shall be sent in the same manner as in paragraph (A) above, to the current sheriff or the chief executive officer of the law enforcement agency or department of the law enforcement officer.

37-020. Confidentiality of Notification.

All notifications to law enforcement officers and their respective employing law enforcement agencies pursuant to R.37-017, R.37-018 and R.37-019 shall be handled in a confidential and sensitive manner.

37-021. Law Enforcement Emergency Vehicle Training Requirement.

A. Every law enforcement agency which uses emergency vehicles shall make provision for the training set out in R.37-022 as appropriate for each such officer's law enforcement duty requirements prior to any such officer's certification as qualified by the Academy.

B. Officers holding valid certification on the effective date of these regulations must successfully complete the training set out in R.37-022, as is appropriate for such officer's law enforcement duty requirements within 180 days of such date.

37-022. Law Enforcement Emergency Vehicle Training Requirement.

A. Non-Emergency Response Training.

(1) Every law enforcement officer who drives or operates an emergency vehicle shall successfully complete a course of instruction relating to non-emergency operation of the law enforcement emergency vehicle.

(2) Every law enforcement agency shall make provisions for the training prescribed in R.37-022(A)(1) and shall promulgate written policy and procedure concerning non-emergency vehicle response, consistent with the provisions of the course of instruction, which shall be included as part of the training provided to its officers.

B. Emergency Response Training.

(1) Every Class 1 law enforcement officer and any other law enforcement officer who drives or operates a law enforcement emergency vehicle in response to an emergency, as defined in these regulations, shall successfully complete a course of instruction relating to emergency response operation of the law enforcement emergency vehicle.

(2) Every agency required to make provision for the training prescribed in R.37-022(B)(1) shall promulgate written policy and procedure concerning emergency response with the law enforcement emergency vehicle, consistent with the provisions of the course of instruction, which shall be included a part of the training program provided to its officers.

C. Pursuit Training.

(1) Every Class 1 law enforcement officer and any other law enforcement officer who drives or operates a law enforcement emergency vehicle in pursuit of an actual or suspected violator of the law, as defined in these regulations, shall successfully complete a course of instruction as prescribed by the Department relating to pursuit operation of the law enforcement emergency vehicle.

(2) Every agency required to make provision for the training prescribed in R.37-022(C)(1) shall promulgate written policy and procedure concerning pursuit operation of the law enforcement emergency vehicle, consistent with the provisions of the course of instruction which shall be included as a part of the training program provided to its officers.

37-023. Notification of Training Compliance.

A. Every agency required to conduct training pursuant to R.37-022 shall provide proof of completion of the required training programs, including appropriate instruction in the written policies and procedures of the agency concerning operation of the law enforcement emergency vehicle as required by R.37-022.

B. A law enforcement officer who transfers from one agency to another shall be required to successfully complete the training program appropriate for the agency to which transfer has occurred, in accordance with R.37-022. Provided, however, that an officer who has successfully completed a training program pursuant to R.37-022 within a period of one year of the date of transfer to another agency, where the successfully completed program is appropriate for the officer's law enforcement duty with the agency to which transferred, shall not be required to complete another training program upon such a transfer, but

rather the employing agency to which transferred shall provide appropriate instruction to the transferred officer in the written policies and procedures of the agency concerning operation of the law enforcement emergency vehicle as required by R.37-022. This training shall be reported to the Academy as required in R.37-023(A).

37-024. Continuing Training Requirement.

A. The training required by R.37-022 shall be conducted on a continuing basis no less frequently than annually. Every agency shall report, on the form prescribed by the Academy, the provision of appropriate training on or before the expiration of the current certification. Nothing in these regulations shall be construed to prohibit such training on a basis more frequently than annually.

B. Officers successfully completing appropriate required emergency vehicle training shall be provided CLEE hours in accordance with R.37-013 appropriate for the number of hours of instruction received.

37-025. Approval of Training Programs.

A. All agencies required to conduct training programs pursuant to R.37-022 shall, prior to initiation of the required training, submit training materials as required by the Academy for review and approval.

B. CLEE hours shall be awarded only for materials properly submitted and approved by the Academy.

37-026. Equivalent Law Enforcement Emergency Vehicle Training.

Training provided by other states, the federal government or private training providers, will be evaluated in a fashion consistent with the provisions of R.37-008. In each instance where an agency or officer submits a request for credit for equivalent training, the employing agency must provide verification that appropriate instruction in the written policies and procedures of the agency has occurred, in accordance with the directives of R.37-023(B) regarding transferred officers.

37-027. Effect of Failure to Comply.

A. Any agency which willfully fails to comply with the directives of R.37-021 through 37-026, shall be subject to a civil penalty as provided by law.

B. Any law enforcement officer found not to be in compliance with the directives of R.37-021 through 37-026, shall have his or her certification as a law enforcement officer withdrawn in accordance with R.37-026(A)(2) and his or her authority to exercise law enforcement powers shall cease, and the officer's certification shall be deemed to have lapsed.

37-028. Definitions.

A. For purposes of R. 37-001 - 37-027, the following definitions shall apply:

- (1) "Agency" means local government or public safety agency employing law enforcement officers.
- (2) "Director" means the Director of the South Carolina Criminal Justice Academy.
- (3) "Academy" means the South Carolina Criminal Justice Academy.

B. For purposes of R.37-021 and 37-022, the following definitions shall apply:

- (1) "Emergency" means a sudden or unexpected occurrence involving an imminent threat to human life or immediate potential for extreme property damage under conditions requiring immediate response to curtail imminent harm to human life.

With respect to the suspected commission of a criminal offense and law enforcement response to such offense, the classification of the crime as felony or misdemeanor shall not be the sole determinative factor of whether an emergency is present; but rather all known factors, in accordance with the first paragraph above, will be weighed in a determination of whether an emergency exists.

(2) "Non-Emergency" means a situation involving conditions routinely encountered in line of law enforcement duty which does not pose an imminent threat to human life or immediate potential for extreme property damage which would require immediate response to curtail harm to human life.

(3) "Pursuit" means a event involving a law enforcement officer attempting to apprehend a person in a motor vehicle while that person is trying to avoid capture by willfully failing to yield to the officer's signal to stop. It also includes the closing of the distance between a law enforcement vehicle and the violator's vehicle under circumstances where the violator is not yet aware of the law enforcement action.

(4) "Emergency Response" means the driving of a law enforcement emergency vehicle by a law enforcement officer in response to an emergency, as defined herein, where the response is conducted in accordance with state law and department policy.

(5) "Non-Emergency Response" means the driving of a law enforcement emergency vehicle by a law enforcement officer in response to a non-emergency, as defined herein. This response involves operation of the law enforcement emergency vehicle in all modes other than emergency response or pursuit mode.

(6) "Law Enforcement Emergency Vehicle" means a motor vehicle, as defined by the laws of this state, whether marked or unmarked, used by a law enforcement agency in the conduct of law enforcement operations, in accordance with state law and department policy.

ARTICLE 3

E-911 SYSTEM

37-060. Definitions.

- A. "Operator" means a telecommunications operator or dispatcher employed in an E-911 system.
- B. "Agency" means local government or public safety agency employing operators.
- C. "Director" means the Director of the South Carolina Criminal Justice Academy.
- D. "Academy" means the South Carolina Criminal Justice Academy.

37-061. Authority of Director.

A. The Director of the South Carolina Criminal Justice Academy ("Academy") is authorized to promulgate regulations related to providing training and issuing certification to operators pursuant to Chapter 47, Title 23 Code of Laws of South Carolina, 1976, as amended.

B. All orders issued shall be reviewed and ratified by the Director prior to their issuance.

37-062. Application for Issuance or Re-issuance of Certification.

A. All candidates for issuance or re-issuance of certification must not be in arrears on child support.

B. All applications for issuance or re-issuance of operator's certification shall be submitted within fifteen days after hire on a form prescribed by the Academy.

37-063. Requirement of Good Character.

A. Background Investigations.

Every agency who requests operator's certification shall conduct a background investigation in accordance with guidelines issued by the Academy.

B. Certification to the Academy.

Every agency who requests operator's certification shall certify to the Academy that, in the opinion of the agency, the candidate is of good character and has not engaged in misconduct as defined in R.37-066. However, a finding of good character is subject to final approval by the Director of the Academy.

C. Availability of Background Information.

Information obtained in any background investigation made in response to these regulations, shall be available, upon request, to the Academy for its review and to any future prospective agency or law enforcement employers to assist them in a determination of an applicant's good character for operator's or law enforcement certification.

37-064. Minimum Requirements for Operator Enrollment in Training.

A. All agencies having operators as candidates for training and certification shall submit to the Academy, the following:

- (1) an application under oath in a format prescribed by the Director;
- (2) evidence satisfactory to the Director that the candidate possesses a high school diploma or equivalent recognized and accepted by the South Carolina Department of Education;
- (3) evidence satisfactory to the Director that the candidate's present age is not less than eighteen years;
- (4) evidence satisfactory to the director that the candidate is a person of good character. This evidence must include, but is not limited to:
 - (a) certification by the candidate's employer that a background investigation has been conducted and the agency is of the opinion that the candidate is of good character;
 - (b) evidence satisfactory to the Director that a criminal history check has been completed and indicates no record of a convictions for an offense that would constitute misconduct.
 - (c) In the Director's determination of good character, the Director shall give consideration to all law violations, including traffic and conservation law convictions, as indicating a lack of good character. The Director shall also give consideration to the candidate's prior history, if any, of alcohol and drug abuse in arriving at a determination of good character.

B. Nothing in this regulation shall be construed to preclude any agency from establishing qualifications or standards for hiring that exceed these minimum standards.

37-065. Cost of Training.

The cost of training shall be established by the Academy. Agencies shall forward an authorized purchase order for this amount with each application for training.

37-066. Denial of Certification for Misconduct.

A. The Academy may deny certification based on evidence satisfactory to the Director that the candidate has engaged in misconduct. For purposes of this section, misconduct means:

- (1) Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, criminal domestic violence, criminal domestic violence of a high and aggravated nature, or a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any) in this or any other jurisdiction;
- (2) Violations of criminal law resulting from administrative inquiries; and/or
- (3) Arrears in child support.

B. In considering whether to deny certification based on misconduct, the Director may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

37-067. Certification.

Certification will occur upon the successful completion of the prescribed training course as set out in 37-068.

37-068. Training Requirements for Certification.

A. Candidates for certification as operators shall successfully complete a prescribed course of training as approved by the Director and will be certified as Class 4-TCO.

B. Candidates employed as operators prior to June 27, 1997 may be certified without completing the training referenced in paragraph (A) above if the candidate has:

- (1) two years continuous employment as an operator and no break in service of longer than six months; or
- (2) one year continuous employment as an operator, no break in service of more than six months, and prior training accredited by the Academy, and the candidate successfully passes a comprehensive test as approved by the Director and administered by the Academy. No retest will be offered.

37-069. Training to Take Place within One Year of Hire.

A. No operator employed or appointed on or after the effective date of these regulations by any agency in this State is authorized to receive, process, transmit and/or dispatch emergency and non-emergency calls for police, fire, emergency medical and other public safety services via communication devices unless he or she has been certified as qualified by the Director, except that any agency in this State may appoint or employ as an operator, a person who is not certified if, within one year after the date of employment or appointment, the person secures certification from the Director. Exceptions to the one-year rule may be granted by the director in these cases:

- (1) military leave or injury occurring during that first year which would preclude the receiving of training within the usual period of time; or
- (2) in the event of the timely filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period; or
- (3) upon presentation of documentary evidence that the candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of operator

training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in these regulations or by standards set by the Director; or

(4) if it is determined by documentary evidence that the training will result in undue hardship to the requesting agency, the requesting agency must propose an alternate training schedule for approval.

B. Notwithstanding another provision of law, in the case of a candidate for certification who begins one or more periods of state or federal military service within one year after his date of employment or appointment, the period of time within which he must obtain the certification required to become an operator is automatically extended for an additional period equal to the aggregate period of time the candidate performed active duty or active duty for training as a member of the National Guard, the State Guard, or a reserve component of the Armed Forces of the United States, plus one hundred and eighty days. The director must take all necessary and proper action to ensure that a candidate for certification as an operator who performs military service within one year of his employment or appointment is not prejudiced in obtaining certification as a result of having performed state or federal military service.

37-070. Prior Training with Break in Service.

A. All certification lapses upon separation from employment.

B. A candidate with prior certification and a break in service of less than two years will be re-certified by the Academy upon receiving a request by his or her employing agency, and upon providing proof of no disabilities at law.

C. A candidate with prior certification and a break in service of more than two years must meet the requirements of 37-064 and 37-068(A).

37-071. Separation from Employment.

A. All agencies are required to notify the Academy when an operator leaves the employment of the agency, regardless of the reason for the separation within 15 days of separation.

B. Such notification shall take place on a form as prescribed by the Academy, containing the facts and circumstances leading to the separation, for the Academy's use and review.

C. In the event that such notification contains allegations of misconduct, a copy of such notice shall be sent to the operator and the operator shall be allowed to file a response for the Academy's use and review.

D. A willful failure by agencies to supply the facts and circumstances of separation shall subject the violator to a civil penalty as provided by law.

37-072. Withdrawal of Certification of Operators.

A. An operator shall have his or her certification as an operator withdrawn by the Director upon the occurrence of any one or more of the following events:

(1) The operator is found to have falsified any application for certification and training based upon which the operator was admitted for training.

(2) The operator is found to be ineligible for service as an operator because of his or her failure to meet prerequisite qualifications for training and certification, as set by law, even though such ineligibility did not exist or was not discovered until after the operator's initial certification.

(3) The operator is convicted of a criminal offense under the law of any jurisdiction which would, by the laws of this State, disqualify the operator from obtainment of certification.

(4) Evidence satisfactory to the Director that the operator has engaged in misconduct. For purposes of this section, misconduct means:

(a) Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, Criminal Domestic Violence, or Criminal Domestic Violence of a High and Aggravated Nature, or a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), in this or any other jurisdiction;

(b) Violations of criminal law resulting from administrative inquiries; and/or

(c) Arrears in child support.

In considering whether to withdraw certification based on misconduct, the Director may consider the seriousness, frequency and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

37-073. Reporting of Events Requiring Withdrawal of Certification.

A. It shall be the responsibility of the agency head to report to the Academy the occurrence of any event or series of events, which may require the withdrawal of certification of an operator who is currently or was last employed by his or her agency.

B. The report shall be made within fifteen days of the final agency action resulting from the internal investigation conducted by the agency, and shall be on a form prescribed by the Academy.

C. A willful failure to report information shall subject the violator to a civil penalty as provided by the Academy.

D. Only events which are determined as founded by the agency shall be reported as provided herein above.

37-074. Investigation of Events Requiring Withdrawal of Certification; Notification to Operator.

A. Upon receipt of a report pursuant to R.37-074, the Academy shall initiate an investigation into reported events which may require withdrawal of the operator's certification.

B. The Director may suspend the certification of any operator pending the outcome of an investigation initiated pursuant to paragraph (A) above.

C. An operator who is the subject of an investigation shall be notified of its initiation on a form prescribed by the Academy, sent to the current address on file at the Academy as soon as practicable after the investigation is initiated.

D. Duplicate of such notice shall be sent, in the same manner prescribed in paragraph (C) above, to the current chief executive of the employing agency or department of the operator.

E. The Academy may direct that the investigation, on its behalf, be conducted. The investigation shall be sent to the Academy for its use and review.

F. Where the Academy's investigation indicates that withdrawal of the operator's certification is not warranted, the Academy shall notify the operator and the chief executive officer of the employing operator of its finding, in accordance with the notice provisions of paragraph (C) and (D) above.

G. Where the Academy's investigation indicates that withdrawal of the operator's certification is warranted, the Academy shall proceed in accordance with R.37-076.

37-075. Notification of Withdrawal of Certification.

A. Prior to the withdrawal of a operator's certification pursuant to R.37-073, the Academy shall notify the operator whose certification is to be withdrawn on a form prescribed by the Academy sent to the current address on file at the Academy to the officer.

B. Such notice shall be provided to the operator ten days in advance of the effective date of withdrawal of the certification.

C. Duplicate of such notice shall be sent in the same manner as in paragraph (A) above, to the current chief executive of the agency or department of the operator.

37-076. Confidentiality of Notification.

All notifications to operators and their respective employing agencies pursuant to R.37-074, R.37-075 and R.37-076 shall be handled in a confidential and sensitive manner.